

1993

# Bonded Adjustment Bureau, a Utah Corporation v. Russell Schmidt and Ann Schmidt : Brief of Appellee

Utah Court of Appeals

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Russell and Ann Schmidt; Pro se.

E. Glen Nickle; Pace, Broadhead & Nickle; Attorney for Plaintiff-Appellee.

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930615

APR 25 1994

BONDED ADJUSTMENT BUREAU, a Utah Corporation,	)	
	)	
	)	
	)	
Plaintiff-Appellee,	)	Case No. 930615-CA
	)	
v.	)	
	)	
RUSSELL SCHMIDT & ANN SCHMIDT	)	
	)	Priority 15
	)	
Defendants-Appellants	)	
	)	

Appeal from the  
Third Judicial Circuit Court, Murray Division  
Honorable Michael K. Burton, Presiding

**RUSSELL AND ANN SCHMIDT**  
*Pro se*  
519 D. Street  
Salt Lake City, UT 84103  
Telephone: (801) 359-4427

## LIST OF ALL PARTIES

To the best of the Plaintiff's-Appellee's knowledge, all interested parties appear in the caption of this Brief.

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IN THE UTAH COURT OF APPEALS

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BONDED ADJUSTMENT BUREAU,	)	
a Utah Corporation,	)	
	)	
Plaintiff-Appellee,	)	Case No. 930615-CA
	)	
v.	)	
	)	
RUSSELL SCHMIDT & ANN	)	
SCHMIDT	)	Priority 15
	)	
Defendants-Appellants	)	
	)	

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**BRIEF OF DEFENDANTS - APPELLEES**

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**STATEMENT OF JURISDICTION**

This Court has jurisdiction to hear this appeal under Utah Code Ann. § 78-2a-3(d) (1992).

**STATEMENT OF THE ISSUES**

1. Under the "family expense doctrine" of Utah Code Ann. § 30-2-9 (1953), is a spouse liable for the other spouse's medical bills which were incurred during the marriage while living together as husband and wife?

**STANDARD OF REVIEW:** "[A] lower court's statutory interpretations [are accorded] no particular deference but assess[ed] for correctness, as [] any other conclusion of law." *State ex rel. Div. of Consumer Protection v. Rio Vista Oil, Ltd.*, 786 P.2d 1343 (Utah 1990). Conclusions of law are reviewed without deference for correctness. *Robertson v. Gem Ins. Co.*, 828 P.2d 496, (Utah App. 1992); *Berube v. Fashion Centre, Ltd.*, 771 P.2d 1033, 1039 (Utah 1989); *Scharf v. BMG Corp.*, 700 P.2d 1068, 1070 (Utah 1985).

2. Under UTAH CONST. art. XXII § 2 and Utah Code Ann. § 30-2-1 (1953) is a spouse's wages exempt from execution for payment of the other spouse's medical bills which were incurred during the marriage while living together as husband and wife?

**STANDARD OF REVIEW:** This standard of review is the same as for the first issue.

### **DETERMINATIVE STATUTES**

UTAH CONST. art. XXII § 2

Real and personal estate of every female, acquired before marriage, and all property to which she may afterwards become entitled by purchase, gift, grant, inheritance or devise, shall be and remain the estate and property of such female, and shall not be liable for the debts, obligations or engagements of her husband, and may be conveyed, devised or bequeathed by her as if she were unmarried.

Utah Code Ann. § 30-2-1 (1953)

Real and personal estate of every female acquired before marriage, and all property to which she may afterwards become entitled by purchase, gift, grant, inheritance, bequest or devise, shall be and remain the estate and property of such female, and shall not be liable for the debts, obligations or engagements of her husband, and may be conveyed, devised or bequeathed by her as if she were unmarried.

Utah Code Ann. § 30-2-9 (1953)

The expenses of the family and the education of the children are chargeable upon the property of both husband and wife or of either of them, and in relation thereto they may be sued jointly or separately.

### **STATEMENT OF THE CASE**

The Plaintiff brought this collection action against the Defendants Russell and Ann Schmidt for medical services rendered to Russell Schmidt during the time the parties were married and living together. R. 1-4. Court granted judgment in favor of the Plaintiff and

against both of the Defendants for the amount of the medical services. R. 5. Defendants appealed claiming that the wife is not liable for her husband's medical expenses under Utah Code Ann. § 30-2-9 and UTAH CONST. art. XXII § 2. (Appellant's Brief).

### STATEMENT OF RELEVANT FACTS

Plaintiff filed this action in Murray Circuit Court on January 25, 1993 and served both Defendants with copies of the Summons and Complaint. R. 1-4. The basis of the Complaint is undisputed medical bills for services provided to Defendant Russell Schmidt during the time that he was married and living with Co-defendant Ann Schmidt. R. 1-2. The Complaint alleged that the Co-defendants were husband and wife who were living together at the time the services were rendered. *Id.* The Complaint also alleged that the parties were jointly liable under Utah Code Ann. § 30-2-9 (1953) because the medical services constitute a family expense. *Id.* The Defendants raised no issues as to receipt of the services or to the reasonableness of the charges.

After judgment was entered against both defendants, they made a Motion to Set Aside the judgment claiming that the wife was not liable for the debts of her husband under UTAH CONST. art. XXII § 2. R. 9-10. Judge Burton denied the Defendants' Motion to Set Aside and concluded that Defendants were jointly liable for the medical services rendered to Defendant Russell Schmidt. R. 17.

The basis for Defendants' appeal is twofold: first that the medical expenses of Russell Schmidt are not a family expense under Utah Code Ann. § 30-2-9; and second that all property of the wife is exempt from execution for payment of the husband's debt under UTAH CONST. art. XXII § 2. (Appellants' Brief).



## SUMMARY OF ARGUMENT

Under the "family expense doctrine" in Utah Code Ann. § 30-2-9, both husbands and wives are jointly liable for medical expenses incurred by either spouse during the marriage. Furthermore, UTAH CONST. art XXII § 2 and Utah Code Ann. § 30-2-1 (1953) do not insulate a spouse from claims for family expenses incurred by the other spouse during the marriage, nor is a spouse's wages exempt from execution for family expenses.

## ARGUMENT

### **I. HUSBANDS AND WIVES ARE JOINTLY LIABLE FOR MEDICAL EXPENSES INCURRED BY EITHER SPOUSE DURING THE TIME THEY ARE MARRIED AND LIVING TOGETHER.**

Utah Code Ann. § 30-2-9 (1953) provides that:

The expenses of the family and the education of the children are chargeable upon the property of both husband and wife or of either of them, and in relation thereto they may be sued jointly or separately.

The meaning of this statute is both clear and obvious and the statute applies to the facts of the case at hand.

The defendants have not raised any issues concerning Plaintiff's pleading of the husband and wife relationship; nor do the Defendants contend that a family relationship did not exist at the time that the medical services were rendered to the Defendant Russell Schmidt. Defendants do contend, however, that the medical expenses of one spouse are not "family expenses" within the meaning of § 30-2-9. This, however, is incorrect.

In defining "family expenses," the Utah Supreme Court in *Berrow v. Shields* 48 Utah 270, 159 P. 538 (1916), concluded that, "All that is required by this section is that the things purchased be legitimate or proper 'family expenses;' whether they are or not necessary is immaterial."

Furthermore, in *Morrison v. Federico*, 232 P.2d 374 (Utah 1951), the Utah Supreme again interpreted "family expenses" for which both parties are liable under Utah Code Ann. § 30-2-9 (formerly § 40-2-9). The Court said,

The statute quoted above, places the liability upon both parties only in those areas where the expenses incurred are necessary for family benefit. Embraced within its meaning *are those expenditures which are proper to support the family and necessary to promote the well being and best interest of its members.*"

*Id.* at 377. (emphasis added).

Clearly medical expenses of the husband fall within this described category. Of all expenses, medical expenses stand alone as the most "proper" and "necessary to promote the well being and best interest" of the family members. Without medical services, family members could suffer health problems and even die. It simply cannot rationally be argued that medical expenses do not promote the "well being and best interest" of the family." Consequently, medical expenses of a spouse are "family expenses" under § 30-2-9.

Courts in other states have held that medical expenses are "family expenses" and that a wife is liable for medical services rendered to her husband during the marriage. In *Credit Bureau of San Diego, Inc., v. Johnson*, 61 Cal. App. 2d Supp. 834, 142 P.2d 963 (1943), a case essentially identical to the present case, the California Appeals Court held in favor of a credit bureau against a husband and a wife in an action to recover medical bills of the husband. The Court held that it was beyond dispute that medical services were necessities of life and that saving the life of the husband was as vital to the wife as it was to the husband. *Credit Bureau of San Diego, Inc., v. Johnson*, 61 Cal. App. 2d Supp. 834, 142 P.2d 963 (1943).

Furthermore case law exists in both Iowa and Nevada in which wives were held liable for medical expenses of their husbands because the expenses were necessary expenses of the family. *See Iowa Methodist Hospital v. Utterback*, 232 Iowa 739, 6 N.W.2d 284 (1942); *see also, Swogger v. Sunrise Hospital, Inc.* 88 Nev. 300, 496 P.2d 751 (1972).

Lastly, this Court recently considered the "family expense" statute in *Century Investigations, Inc. v. Davis*, 841 P.2d 732 (Utah App. 1992). In that case Century Investigations attempted to extend the reach of Utah Code Ann. § 30-2-9 to make a divorced non-custodial father liable for medical expenses of his children which were incurred after the divorce and at the bequest of the custodial mother. While the Court declined to extend the reach of § 30-2-9, the Court implicitly reaffirmed that in the family setting, § 30-2-9 provides joint liability for husbands and wives for necessary expenses incurred by either party. *See Id.* at 735.

Public policy also argues for joint liability for medical expenses of either spouse. Making spouses liable for the medical bills of the other spouse, makes collection of medical debts more feasible. This in turn lowers health care costs. Moreover, health care providers will be more willing to extend medical services if the assets of both spouses stand ready to satisfy claims for medical care.

Lastly, it simply makes sense that one spouse should be liable for the other spouse's medical bills. Because of the unity of a marriage, both spouses receive benefit from medical care provided to either spouse. Each spouse has a vital interest in the health and well being of the other spouse. Accordingly, both spouses should be liable for medical care received by either spouse because the marital unit as a whole is benefitted by the care.

In summary, Utah Code Ann. § 30-2-9 (1953) provides for joint liability for expenses incurred by either spouse during the marriage if the expenses are proper family expenses. Medical expenses are clearly "family expenses" under Utah law. Consequently, Plaintiffs are entitled to a judgment against both Russell and Ann Schmidt for the services rendered to Russell Schmidt.

**II. UTAH CONST. art XXII § 2 DOES NOT INSULATE THE WIFE FROM CLAIMS FOR FAMILY EXPENSES HER HUSBAND INCURRED DURING THE MARRIAGE.**

The Appellants misinterpret UTAH CONST. art XXII § 2 and Utah Code Ann. § 30-2-1 (1953) in their brief and their stated position in this appeal. The language of UTAH CONST. art XXII § 2 and Utah Code Ann. § 30-2-1 (1953) is virtually the same:

Real and personal estate of every female, acquired before marriage, and all property to which she may afterwards become entitled by purchase, gift, grant, inheritance or devise, shall be and remain the estate and property of such female, and shall not be liable for the debts, obligations or engagements of her husband, and may be conveyed, devised or bequeathed by her as if she were unmarried.

(Utah Code Ann. § 30-2-1 (1953) adds the word "bequest" after "inheritance") Other than this the wording is identical.

Appellants argue that these provisions indicate that the wife is not liable for *any* of the husband's debts and *none* of her property can be appropriated to satisfy the husband's debts. Such a position both contradicts the plain meaning of the statute and ignores other provisions of Utah law such as the "family expense doctrine."

When this Court dealt with the "family expense doctrine" in *Century Investigations, Inc. v. Davis*, it emphasized "that the terms of a statute should not be interpreted in a piecemeal fashion, but as a whole." 841 P.2d at 734 (*quoting Silver v. Utah State Tax*

*Comm'n*, 820 P.2d 912, 914 (Utah 1992). Furthermore, "a statute should be construed as a whole, and its terms should be construed to be harmonious with each other." *Id.*

If a wife could not be liable for *any* of the husband's debts, as urged by the Appellants, the "family expense doctrine" as contained in Utah Code Ann. § 30-2-9 would be effectively eliminated and "gutted" of its plain meaning. Appellants simply misunderstand that the "family expense doctrine" is an exception to the general rule contained in § 30-2-5 that "neither spouse is personally liable for the separate debts . . . of the other." Furthermore, § 30-2-5 makes this interpretation crystal clear in subsection (b) where "family expenses as provided in Section 30-2-9." are excepted from the general rule.

Another problem with Appellants' interpretation is evident on page 5 of Appellants' Brief when the word "she" is incorrectly placed in front of Appellants' quotation of § 30-2-1. (on Appellants Brief 30-1-1 is evidently used erroneously for § 30-2-1). A simply reading of the statute indicates that "certain categories of assets" should be inserted rather than "she."

Although Appellants see it differently, UTAH CONST. art XXII § 2 and Utah Code Ann. § 30-2-1 (1953) do not exempt the wife from liability for *all* the husband's debts and do not exempt *all* of the wife's assets from execution for her husband debts incurred during marriage.

Instead, UTAH CONST. art XXII § 2 and Utah Code Ann. § 30-2-1 (1953) only exempt certain categories of the wife's property from execution for the husband's debts. Specifically, real estate acquired before marriage and all property acquired afterward which is obtained by purchase, gift, grant, inheritance, bequest or devise, remains the property of the wife and is not subject to execution for the debts of her husband. Thus, the provisions

do not exempt *all* property but only certain categories of property.

If all of the wife's property were exempt from execution for the husband's "family expenses," the "family expense doctrine" in § 30-2-9 would have no meaning or purpose. Joint liability for family expenses would not exist if there were no property of the wife which could be claimed to satisfy "family expenses."

In the case at bar, the only property on which Plaintiffs have attempted to execute is the wages of Ann Schmidt. Mr. Schmidt is presently unemployed, but Ann Schmidt is employed as a teacher in the Granite School District. Plaintiff has a judgment for a just debt for medical services rendered to Mr. Schmidt during a time when the Co-Defendant's were living together as husband and wife. If Appellants' position is adopted, Russell Schmidt could incur numerous debts for family expenses for which Ann Schmidt would never be liable. Such a position runs counter to the "family expense doctrine," and results in injustice to parties dealing with Mr. Schmidt.

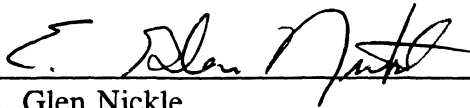
With the "family expense doctrine," Utah law clearly provides for spouses to be jointly liable for family expenses. Furthermore, wages earned during the marriage by either spouse are clearly subject to claims of creditors who provide "family expenses" to either spouse.

### **CONCLUSION**

In conclusion, the trial Court properly held that the medical expenses of Russell Schmidt incurred at a time when he was married to and living with Ann Schmidt were family expenses and chargeable against the wages of both parties. This position is consistent with the provisions of UTAH CONST. art XXII § 2 and Utah Code Ann. § 30-2-1 (1953).

The Appellees, therefore, request that the Court affirm the judgment of the Circuit Court holding both Russell Schmidt and Ann Schmidt liable for Mr. Schmidt's medical expenses and making Ms. Schmidt's wages subject to execution for such debt. Appellee also moves the Court for costs as provided under Utah R. App. Proc. 34, for attorney's fees pursuant to Rule 33, and other relief as the Court sees fit.

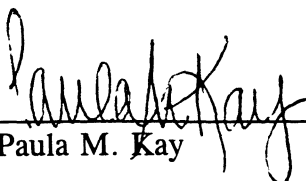
Dated this 25<sup>th</sup> day of April, 1994.

  
\_\_\_\_\_  
E. Glen Nickle  
Attorney at Law

CERTIFICATE OF MAILING

I hereby certify that on the 25<sup>th</sup> day of April 1994, I mailed, postage prepaid, or personally delivered a true and correct copy of the foregoing document to:

Russell and Ann Schmidt, pro se  
519 D. Street  
Salt Lake City, UT 84103.

  
\_\_\_\_\_  
Paula M. Kay

marriage license application fees, not more than \$10 for premarital counseling, to be paid by the applicants at the time they make application. 1971

**30-1-39. Violation of counseling provisions — Misdemeanor.**

Any person coming within the provisions of this act who falsely represents that he has complied with the requirements of a master plan for premarital counseling or who, for the purpose of evading the provisions of this act, applies for a marriage license in a county within the state of Utah which does not require premarital counseling, is guilty of a misdemeanor. 1971

**CHAPTER 2**

**PROPERTY RIGHTS**

Section	
30-2-1.	Wife's rights in property — Liability for husband's debts.
30-2-2.	Wife's right to contract, sue and be sued.
30-2-3.	Conveyances between husband and wife.
30-2-4.	Wife's right to wages — Actions for personal injury.
30-2-5.	Separate debts.
30-2-6.	Actions based on property rights.
30-2-7.	Husband's liability for wife's torts.
30-2-8.	Agency between husband and wife.
30-2-9.	Family expenses — Joint and several liability.
30-2-10.	Homestead rights — Custody of children.

**30-2-1. Wife's rights in property — Liability for husband's debts.**

Real and personal estate of every female acquired before marriage, and all property to which she may afterwards become entitled by purchase, gift, grant, inheritance, bequest or devise, shall be and remain the estate and property of such female, and shall not be liable for the debts, obligations or engagements of her husband, and may be conveyed, devised or bequeathed by her as if she were unmarried. 1953

**30-2-2. Wife's right to contract, sue and be sued.**

Contracts may be made by a wife, and liabilities incurred and enforced by or against her, to the same extent and in the same manner as if she were unmarried. 1953

**30-2-3. Conveyances between husband and wife.**

A conveyance, transfer or lien executed by either husband or wife to or in favor of the other shall be valid to the same extent as between other persons. 1953

**30-2-4. Wife's right to wages — Actions for personal injury.**

A wife may receive the wages for her personal labor, maintain an action therefor in her own name and hold the same in her own right, and may prosecute and defend all actions for the preservation and protection of her rights and property as if unmarried. There shall be no right of recovery by the husband on account of personal injury or wrong to his wife, or for expenses connected therewith, but the wife may recover against a third person for such injury or wrong as if unmarried, and such recovery shall include expenses of medical treatment and other expenses paid or assumed by the husband. 1953

**30-2-5. Separate debts.**

(1) Neither spouse is personally liable for the separate debts, obligations, or liabilities of the other:

- (a) contracted or incurred before marriage;
- (b) contracted or incurred during marriage, except family expenses as provided in Section 30-2-9;
- (c) contracted or incurred after divorce or an order for separate maintenance under this title; or
- (d) ordered by the court to be paid by the other spouse under Section 30-3-5 or 30-4-3 and not in conflict with Section 15-4-6.5.

(2) The wages, earnings, property, rents, or other income of one spouse may not be reached by a creditor of the other spouse to satisfy a debt, obligation, or liability of the other spouse, as described under Subsection (1). 1991

(2) The wages, earnings, property, rents, or other income of one spouse may not be reached by a creditor of the other spouse to satisfy a debt, obligation, or liability of the other spouse, as described under Subsection (1). 1991

**30-2-6. Actions based on property rights.**

Should the husband or wife obtain possession or control of property belonging to the other before or after marriage, the owner of the property may maintain an action therefor, or for any right growing out of the same, in the same manner and to the same extent as if they were unmarried. 1953

**30-2-7. Husband's liability for wife's torts.**

For civil injuries committed by a married woman damages may be recovered from her alone, and her husband shall not be liable therefor, except in cases where he would be jointly liable with her if the marriage did not exist. 1953

**30-2-8. Agency between husband and wife.**

A husband or wife may constitute the other his or her attorney in fact to control and dispose of his or her property for their mutual benefit or otherwise, and may revoke the appointment the same as other persons. 1953

**30-2-9. Family expenses — Joint and several liability.**

The expenses of the family and the education of the children are chargeable upon the property of both husband and wife or of either of them, and in relation thereto they may be sued jointly or separately. 1953

**30-2-10. Homestead rights — Custody of children.**

Neither the husband nor wife can remove the other or their children from the homestead without the consent of the other, unless the owner of the property shall in good faith provide another homestead suitable to the condition in life of the family; and if a husband or wife abandons his or her spouse, that spouse is entitled to the custody of the minor children, unless a court of competent jurisdiction shall otherwise direct. 1977

**CHAPTER 3**

**DIVORCE**

Section	
30-3-1.	Procedure — Residence — Grounds.
30-3-2.	Right of husband to divorce.
30-3-3.	Award of costs, attorney and witness fees — Temporary alimony.
30-3-4.	Pleadings — Findings — Decree — Sealing.
30-3-4.1 to 30-3-4.4.	Repealed.
30-3-5.	Disposition of property — Maintenance and health care of parties and



## Art. XVI, § 1

## CONSTITUTION OF UTAH

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## Section

6. [Eight hours a day's labor on public works — Health and safety laws.]  
 7. [Legislature to enforce this article.]  
 8. [Minimum wage for women and minors — Comfort and safety laws.]

## Section 1. [Rights of labor to be protected.]

The rights of labor shall have just protection through laws calculated to promote the industrial welfare of the State. 1896

## Sec. 2. [Board of labor.]

The Legislature shall provide by law, for a Board of Labor, Conciliation and Arbitration, which shall fairly represent the interests of both capital and labor. The Board shall perform duties, and receive compensation as prescribed by law. 1896

## Sec. 3. [Certain employment and practices to be prohibited.]

The Legislature shall prohibit:

- (1) The employment of children under the age of fourteen years, in underground mines.  
 (2) The involuntary contracting of convict labor.  
 (3) The political and commercial control of employees. 1979

## Sec. 4. [Exchange of blacklists prohibited.]

The exchange of black lists by railroad companies, or other corporations, associations or persons is prohibited. 1896

## Sec. 5. [Injuries resulting in death — Damages.]

The right of action to recover damages for injuries resulting in death, shall never be abrogated, and the amount recoverable shall not be subject to any statutory limitation, except in cases where compensation for injuries resulting in death is provided for by law. 1919

## Sec. 6. [Eight hours a day's labor on public works — Health and safety laws.]

Eight hours shall constitute a day's work on all works or undertakings carried on or aided by the State, County or Municipal governments; and the Legislature shall pass laws to provide for the health and safety of employees in factories, smelters and mines. 1896

## Sec. 7. [Legislature to enforce this article.]

The Legislature, by appropriate legislation, shall provide for the enforcement of the provisions of this article. 1896

## Sec. 8. [Minimum wage for women and minors — Comfort and safety laws.]

The legislature may, by appropriate legislation provide for the establishment of a minimum wage for women and minors and may provide for the comfort, health, safety and general welfare of any and all employees. No provision of this Constitution shall be construed as a limitation upon the authority of the legislature to confer upon any commission now or hereafter created such power and authority as the legislature may deem requisite to carry out the provisions of this section. 1933

ARTICLE XVII  
WATER RIGHTS

## Section

1. [Existing rights confirmed.]

## Section 1. [Existing rights confirmed.]

All existing rights to the use of any of the waters in this State for any useful or beneficial purpose, are hereby recognized and confirmed. 1896

## ARTICLE XVIII

## FORESTRY

## Section

1. [Forests to be preserved.]

## Section 1. [Forests to be preserved.]

The Legislature shall enact laws to prevent the destruction of and to preserve the Forests on the lands of the State, and upon any part of the public domain, the control of which may be conferred by Congress upon the State. 1896

## ARTICLE XIX

## PUBLIC BUILDINGS AND STATE INSTITUTIONS

## Section

- 1 to 3. [Repealed.]

## Sections 1 to 3. [Repealed.] 1906

## ARTICLE XX

## PUBLIC LANDS

## Section

1. [Land grants accepted on terms of trust.]

## Section 1. [Land grants accepted on terms of trust.]

All lands of the State that have been, or may hereafter be granted to the State by Congress, and all lands acquired by gift, grant or devise, from any person or corporation, or that may otherwise be acquired, are hereby accepted, and declared to be the public lands of the State; and shall be held in trust for the people, to be disposed of as may be provided by law, for the respective purposes for which they have been or may be granted, donated, devised or otherwise acquired. 1896

## ARTICLE XXI

## SALARIES

## Section

- 1, 2. [Repealed.]

## Sections 1, 2. [Repealed.]

## ARTICLE XXII

## MISCELLANEOUS

## Section

1. [Homestead exemption.]  
 2. [Property rights of married women.]  
 3. [Seat of government.]

## Section 1. [Homestead exemption.]

The Legislature shall provide by statute for the exemption of a homestead, which may consist of more parcels of lands, together with the improvements and improvements thereon, from and against the claims of creditors. 1896

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## CONSTITUTION OF UTAH

## Art. XXIV, § 1

## ARTICLE XXIV

## SCHEDULE

## Section

1. [Actions, contracts to continue.]  
 2. [Territorial laws continued.]  
 3. [Prisoners to be held.]  
 4. [Fines, penalties and forfeitures due the territory — Debts of the territory.]  
 5. [Recognizances — Judgments — Records — Fines due counties, municipalities and school districts.]  
 6. [Criminal prosecutions begun and crimes committed before statehood.]  
 7. [Transfer of causes, records.]  
 8. [Seals of courts.]  
 9. [Transfer of probate causes to district courts.]  
 10. [Officers to hold office until superseded.]  
 11. [Election for adoption or rejection of Constitution and for state officers — Voters.]  
 12. [Officers to be elected.]  
 13. [Contest for district judgeship, how determined.]  
 14. [Constitution to be submitted to voters — Ballot.]  
 15. [Election of officers not provided for herein.]  
 16. [When Constitution in force.]

Section 1. [Actions, contracts to continue.]  
 In order that no inconvenience may arise, by reason of the change from a Territorial to a State Government, it is hereby declared that all writs, actions, prosecutions, judgments, claims and contracts, as well of individuals as of bodies corporate, both public and private, shall continue as if no change had taken place; and all process which may issue, under the authority of the Territory of Utah, previous to its admission into the Union, shall be as valid as if issued in the name of the State of Utah. 1896

## Sec. 2. [Territorial laws continued.]

All laws of the Territory of Utah now in force, not repugnant to this Constitution, shall remain in force until they expire by their own limitations, or are altered or repealed by the Legislature. The act of the Governor and Legislative Assembly of the Territory of Utah, entitled, "An Act to punish polygamy and other kindred offenses," approved February 4th, A.D. 1892, in so far as the same defines and imposes penalties for polygamy, is hereby declared to be in force in the State of Utah. 1896

## Sec. 3. [Prisoners to be held.]

Any person, who, at the time of the admission of the State into the Union, may be confined under lawful commitment, or otherwise lawfully held to answer for alleged violation of any of the criminal laws of the Territory of Utah, shall continue to be so held or confined, until discharged therefrom by the proper courts of the State. 1896

## Sec. 4. [Fines, penalties and forfeitures due the territory — Debts of the territory.]

All fines, penalties and forfeitures accruing to the Territory of Utah, or to the people of the United States in the Territory of Utah, shall inure to this State, and all debts, liabilities and obligations of said Territory shall be valid against the State, and enforced as may be provided by law. 1896

## Sec. 5. [Recognizances — Judgments — Records — Fines due counties, municipalities and school districts.]

All recognizances heretofore taken, or which may be taken before the change from a Territorial to a

## Sec. 2. [Property rights of married women.]

Real and personal estate of every female, acquired before marriage, and all property to which she may afterwards become entitled by purchase, gift, grant, inheritance or devise, shall be and remain the estate and property of such female, and shall not be liable for the debts, obligations or engagements of her husband, and may be conveyed, devised or bequeathed by her as if she were unmarried. 1896

## Sec. 3. [Seat of government.]

The seat of state government shall be at Salt Lake City. 1896

## ARTICLE XXIII

## AMENDMENT AND REVISION

## Section

1. [Amendments: proposal, election.]  
 2. [Revision of the Constitution.]  
 3. [Submission to electors.]

## Section 1. [Amendments: proposal, election.]

Any amendment or amendments to this Constitution may be proposed in either house of the Legislature, and if two-thirds of all the members elected to each of the two houses, shall vote in favor thereof, such proposed amendment or amendments shall be entered on their respective journals with the yeas and nays taken thereon; and the Legislature shall cause the same to be published in at least one newspaper in every county of the state, where a newspaper is published, for two months immediately preceding the next general election, at which time the said amendment or amendments shall be submitted to the electors of the state for their approval or rejection, and if a majority of the electors voting thereon shall approve the same, such amendment or amendments shall become part of this Constitution.

The revision or amendment of an entire article or the addition of a new article to this Constitution may be proposed as a single amendment and may be submitted to the electors as a single question or proposition. Such amendment may relate to one subject, or any number of subjects, and may modify, or repeal provisions contained in other articles of the Constitution, if such provisions are germane to the subject matter of the article being revised, amended or being proposed as a new article. 1896

## Sec. 2. [Revision of the Constitution.]

Whenever two-thirds of the members, elected to each branch of the Legislature, shall deem it necessary to call a convention to revise or amend this Constitution, they shall recommend to the electors to vote, at the next general election, for or against a convention, and, if a majority of all the electors, voting at such election, shall vote for a convention, the Legislature, at its next session, shall provide by law for calling the same. The convention shall consist of not less than the number of members in both branches of the Legislature. 1896

## Sec. 3. [Submission to electors.]

No Constitution, or amendments adopted by such convention, shall have validity until submitted to, and adopted by, a majority of the electors of the State at the next general election. 1896